



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

May 20, 2005

**REGISTERED MAIL**  
**RR 359 893 575 US**

The Madison Company  
Attn: Ernie Patty  
415 Baker Boulevard, Suite 200  
Tukwila, WA 98188

Dear Mr. Patty:

**RE: Order #2482**  
**U.S. Army Corps Reference No. 200001465**  
**Water Quality Certification for Construction of a Warehouse Distribution Building**  
**and Associated Driveways, Parking, Truck Loading Areas, and Stormwater**  
**Detention Facilities, Auburn, King County, Washington**

The request for certification for proposed work in wetlands has been reviewed. On behalf of the State of Washington, we certify that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law.

This certification is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Richard Robohm at (425) 649-4447. Written comments can be sent to Richard at the Department of Ecology, 3190 160th Avenue SE, Bellevue, WA 98008, or at [riro461@ecy.wa.gov](mailto:riro461@ecy.wa.gov). The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Jeannie Summerhays  
Section Manager  
Shorelands and Environmental Assistance Program

JS:RR:rrp

Enclosure

cc: Sarah Rahman, U.S. Army Corps of Engineers  
Emmett Pritchard, Raedeke Associates, Inc.  
Penny Keys, Ecology



<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER # 2482</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. 200001465</b>
<b>CERTIFICATION TO</b>	)	Placement of fill in 1.07 acres of wetlands in the
<b>The Madison Company</b>	)	Mill Creek basin for commercial development;
in accordance with 33 U.S.C. 1341	)	Auburn, King County, Washington.
FWPCA § 401, RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	

TO: The Madison Company  
ATTN: Ernie Patty  
415 Baker Boulevard, Suite 200  
Tukwila, WA 98188

On May 21, 2004, a public notice for a proposed water quality certification from the State of Washington was distributed for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA §401). The project consists of placing fill in 1.07 acres of wetlands to build a 2.9-acre (127,000-square-foot) warehouse distribution building and 3.4 acres of associated stormwater detention facilities, driveways, and parking and truck-loading areas.

Compensatory wetland mitigation includes 5.21 acres (226,800 square feet) of offsite wetland enhancement, and 1.33 acres (58,000 square feet) of offsite wetland buffer enhancement in a degraded wetland associated with Mill Creek.

#### **AUTHORITIES:**

For purposes of this Order, the term "Applicant" means The Madison Company and its agents, assigns, and contractors.

In exercising authority under 33 U.S.C. 1341, 16 U.S.C. 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has investigated this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. Sections 1311, 1312, 1313, 1316, and 1317 (FWPCA Sections 301, 303, 306 and 307);
2. Conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 U.S.C. 1313 and by Chapter 90.48 RCW, and with other appropriate requirements of state law; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

**CONDITIONS OF ORDER #2482 AND WATER QUALITY CERTIFICATION:**

In view of the foregoing and in accordance with 33 U.S.C. 1341, RCW 90.48.120, RCW 90.48.260, and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the following conditions:

**A. No Impairment of Water Quality:**

- A1. Certification of this proposal does not authorize Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC) or sediment quality standards (Chapter 173-204 WAC). Water quality criteria contained in WAC 173-201A-030(1) and WAC 173-201A-040 shall apply to this project, unless otherwise authorized by Ecology. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-110(3). Furthermore, nothing in this certification shall absolve Applicant from liability for contamination and any subsequent cleanup of surface waters or sediments occurring as a result of project construction or operations.

**B. Project Mitigation:**

- B1. Impacts to wetlands and aquatic resources shall be mitigated through measures described in the following documents, except as modified by this Certification and Order, and including any approved revisions:

- *Conceptual Mitigation Plan: WILLI Site (formerly known as Open Space East), Auburn, Washington*, by Raedeke Associates, Inc., June 4, 2003, revised May 11, 2005.
- May 19, 2005, Addendum to the May 11, 2005, revised mitigation plan.
- Joint Aquatic Resources Permit Application Form, December 17, 2000, received by Ecology January 14, 2003.

- B2. In addition to mitigation measures described in the above-referenced documents, the following requirements shall be conditions for all mitigation sites:

- Timing: The wetland mitigation plan shall be implemented during the same construction season as site construction for the development.
- Record Report and Drawings: A report documenting the final design of the mitigation project areas shall be prepared when site construction and planting are completed. The report shall include the following:
  - a. Vicinity map showing site access;
  - b. Final site topography;

- c. Drawings that clearly identify in plan view the boundaries of the mitigation areas, including buffers;
- d. The installed planting scheme showing densities, sizes, and locations of plants, as well as plant sources and the time of planting;
- e. Photographs of the area taken from permanent reference points;
- f. Locations of photopoints, sampling and monitoring sites; and
- g. A description of any changes to the mitigation plan that occurred during construction.

A copy of the Record Report shall be sent to Richard Robohm at Ecology within 60 days of completing construction, and in no case later than December 31, 2006. The project monitoring period shall commence with Ecology's acceptance of the Record Report.

- Field Supervision: The wetland mitigation grading activity and plant installation shall be field-supervised by a qualified wetland ecologist to ensure that proper elevations are achieved and plants are appropriately placed.
- Permanent Protection: The Applicant shall provide documentation showing the means of permanent protection for the mitigation sites (such as a conservation easement) to Richard Robohm at Ecology within 60 days of completing construction, and in no case later than December 31, 2006.
- Performance Standards: Standards shall include the minimum square footage of each USFWS habitat class to be achieved by the end of the monitoring period. The standard for cover of native woody species shall be as shown on the May 11, 2005, revision of the Conceptual Mitigation Plan by Raedeke Associates, Inc., and the May 19, 2005, addendum to that plan. The standard for hydrologic conditions shall be as shown on the May 19, 2005, addendum to the plan. The standard for invasive non-native species shall be maximum cover of 15 percent throughout the monitoring period, as stated in the May 11, 2005, revised mitigation plan.
- Monitoring: Detailed monitoring protocols for vegetation and hydrology shall be developed and submitted for review and approval with the Record Report. Monitoring shall take place over a period of ten years, with monitoring performed in years 1, 2, 3, 5, 7 and 10. **Copies of all monitoring reports shall be submitted to Ecology at 3190 – 160<sup>th</sup> Avenue SE, Bellevue, WA, 98008-5452**, as well as to the U.S. Army Corps of Engineers. The monitoring reports should indicate Ecology Order #2482, U.S. Army Corps #200001465.
- Maintenance: Maintenance of the wetland mitigation sites is necessary to ensure that the required performance standards are met. The Applicant is responsible for maintenance of the wetland mitigation site. Maintenance shall be performed as

described in Section 4.6, Site Maintenance and Protection, of the Conceptual Mitigation Plan by Raedeke Associates, Inc., as revised May 11, 2005. Maintenance may include wicking or spot spraying of reed canarygrass by a licensed applicator using an approved herbicide under a permit to be obtained from Ecology.

- Contingency Measures: The Applicant is responsible for the success of the mitigation measures. Table 7 of the Conceptual Mitigation Plan by Raedeke Associates, Inc., as revised May 11, 2005, describes possible solutions that would be implemented if some aspects of the mitigation do not meet performance standards.
- Access: The Applicant shall provide access to the mitigation sites upon request by Ecology personnel for site inspections, monitoring, and necessary data collection to ensure that the wetland construction and monitoring plans are implemented as approved.

**C. Stormwater Management:**

- C1. Construction Stormwater and Erosion Control: Work in or near waters of the state shall be done so as to minimize turbidity, erosion, and other water quality impacts. Construction stormwater, sediment and erosion control Best Management Practices suitable to prevent exceedances of state water quality standards (e.g., detention areas, filter fences, etc.), shall be in place before starting clearing, filling, and grading work at the impact sites, and shall also comply with all requirements of the NPDES Permit.
- C2. All permanent stormwater facilities must be designed to comply with the Stormwater Management Manual for Western Washington, February 2005 (Ecology Publication No. 05-10-30), or other approved manual.
- C3. Stormwater treatment facilities are to be maintained so they function as designed.

**D. Construction:**

- D1. Before clearing and grading in or near wetlands, the wetlands to remain undisturbed shall be protected from construction impacts. Bright orange construction fencing shall be installed before site clearing to mark the edge of the existing wetlands and stream channels to be protected. All project staff shall be trained to recognize the construction fencing that identifies wetland boundaries. Equipment shall not be moved into or operated in wetlands or stream channels that are not authorized to be altered.
- D2. During clearing and filling at the project site, the Applicant shall take all necessary measures to minimize the alteration or disturbance of existing wetland and upland vegetation.

- D3. All construction debris shall be properly disposed of on land so that it cannot enter a waterway or cause water quality degradation to state waters.
- D4. Wash water containing oils, grease, or other hazardous materials resulting from wash down of equipment or working areas shall be contained for proper disposal, and shall not be discharged into state waters or storm drains.
- D5. Clean Fill Criteria: Applicant shall ensure that fill placed for the proposed project does not contain toxic materials in toxic amounts.

**E. Emergency/Contingency Measures:**

- E1. In the event Applicant is unable to comply with any of the permit terms and conditions due to any cause, Applicant shall:
- Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation and correct the problem.
  - Notify Ecology of the failure to comply. Spill events shall be reported immediately to Ecology's 24-Hour Spill Response Team at (425) 649-7000, and within 24 hours to Ecology's Richard Robohm at (425) 649-4447.
  - Submit a detailed written report to Ecology within five days that describes the nature of the violation, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.

Compliance with this condition does not relieve Applicant from responsibility to maintain continuous compliance with the terms and conditions of this Order or the resulting liability from failure to comply.

- E2. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. No refueling of equipment shall occur over, or within 50 feet of creeks or wetlands.

**F. Notification**

- F1. Applicant shall provide notice to Ecology's Richard Robohm at least 3 days prior to the start of placing fill in wetlands or other waters of the state. Notification can take place by e-mail to [rro461@ecy.wa.gov](mailto:rro461@ecy.wa.gov), telephone to (425) 649-4447, fax to (425) 649-7098, or in writing.

**G. General Conditions:**


- G1. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
- G2. Applicant will be out of compliance with this certification if the project is constructed and/or operated in a manner not consistent with the project description contained in the Public Notice for certification, or as otherwise approved by Ecology. Additional mitigation measures may be required through other local, state, or federal requirements.
- G3. Applicant will be out of compliance with this certification and must reapply with an updated application if five years elapse between the date of the issuance of this certification and the beginning of construction and/or discharge for which the federal license or permit is being sought.
- G4. Applicant will be out of compliance with this certification and must reapply with an updated application if the information contained in the Public Notice is voided by subsequent submittals to the federal agency. Any future action at this project location, emergency or otherwise, that is not defined in the Public Notice, or has not been approved by Ecology, is not authorized by this Order. All future actions shall be coordinated with Ecology for approval prior to implementation of such action.
- G5. This Order is valid until all compliance requirements in this document have been met.
- G6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and foremen, and state and local government inspectors. To avoid violations or non-compliance with this Order, Applicant shall ensure that project managers, construction superintendents, and other responsible parties have read and understand relevant aspects of this Order, the NPDES permit if applicable, and any subsequent revision or Ecology-approved plans.
- G7. Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, or to ensure that conditions of this Order are being met.
- G8. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.

- G9. Liability: Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars (\$10,000) per violation for each day of continuing noncompliance.

**Appeal Process:**

Any person aggrieved by Order #2482 may obtain review thereof by appeal. Pursuant to Chapter 43.21B, RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, PO Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated May 20, 2005 at Bellevue, Washington.

  
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Jeannie Summerhays, Section Manager  
Shorelands and Environmental Assistance Program  
Department of Ecology  
State of Washington